

Date: 07 April 2026
Our ref: 544077
Your ref: DCO: BC0410001 MCO: TR0510002



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The Planning Inspectorate
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BY EMAIL ONLY

Dear Robert Jackson

NSIP Reference Names / Codes:

Application by SEGRO Properties Limited, for an order granting development consent for a scheme comprising the East Midlands Gateway Phase 2 (EMG2) / BC0410001

Application by SEGRO (EMG) Limited, for an order making material changes to the previously approved East Midlands Gateway Rail Freight Interchange and Highway Order 2016 / TR0510002

Interested Party references: F351E5B2D and F4CA11EA4

Examining Authority's submission deadline: 07 April 2026

Natural England (NE) is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

In Annex A NE have provided our Written Representations, including updates since Relevant Representations and detailed comments on protected species, soils and agricultural land as these were not included in our Relevant Representations. Also included in Annex B are NE's responses to the Examining Panel's (Exp) First Written Questions.

For any further advice on this consultation please contact the case officer Lucy Collins and copy to consultations@naturalengland.org.uk.

Yours sincerely

Lucy Collins
Sustainable Development Senior Officer

Annex A Natural England's Written Representations

NE's full detailed comments on these applications can be found in our Relevant Representations (RR-023D and RR-050M), which were 'front-loaded' to ease engagement through examination. As a result, the contents of this letter are intended to summarise any updates to our advice, without repetition of the advice already provided. Where no update is provided, it should be assumed our advice remains as stated in our Relevant Representations.

NE have provided below detailed comments on impacts to protected species, soils and agricultural land as these were outstanding from our Relevant Representations. See Table 1 below.

Ongoing engagement between NE & the Applicant

The Applicant has engaged with NE since submission of our Relevant Representations on ecology matters, and the Applicant's draft Statement of Common Ground (SoCG) should be submitted to your authority at Deadline 1. This SoCG should clearly set out both where NE and the Applicant have agreed matters, and where matters remain under discussion. NE will continue to work with the Applicant to update the SoCG throughout Examination.

In addition to the SoCG, **NE have attached to this response a Risk and Issues Log**. This document has been written by NE and sets out each item raised within our Relevant Representations, with updated comments detailing engagement with the applicant to date, including an updated RAG (red, amber or green) rating.

It is our intention that the Risk and Issues Log will continue to be updated and submitted to your authority at relevant deadlines, to maintain a clear record of issues tracking throughout examination.

Summary of Updated Advice

In our Relevant Representations, NE did not raise any 'Red' fundamental concerns but did identify four outstanding 'Amber' items and two 'Yellow' items. The following provides a summary of progress with regards to these Amber and Yellow items. Further detail can be found within the Risk & Issues Log attached, and the Applicant's draft SoCG once submitted.

- RR Ref NE1 (Yellow)
 - NE note the comments provided by the Applicant (via email 24/02/26 – see submitted Risk & Issues Log) on the limited significance of the use of LNRS in the future baseline assessment. This is due to a lack of mapped measures within the Order Limits and limited ecological value within the future baseline. NE note that some of the unmapped measures could provide uplift to the future baseline but acknowledge the limited significance of impacts for consideration in the assessment. As such we are satisfied this has been justified and can be changed to Green in the SoCG.
- RR Ref NE3 (Amber) – No update since Relevant Representations.
- RR Ref NE4 (Amber) – No update since Relevant Representations.
- RR Ref NE5 (Yellow) – No update since Relevant Representations.
- DCO Requirement 11 (Amber) – No update since Relevant Representations.
- DCO Requirement 17 (Amber) – No update since Relevant Representations.

Detailed Advice on Protected Species, Soils and Agricultural Land

Table 1 of these representations sets out any significant issues ('red' and 'amber' issues) which, in our view remain outstanding and includes our advice on pathways to their resolution where possible. Table 1 also shows 'green' issues where a resolution has been reached and **subject always to the appropriate requirements being adequately secured** and 'yellow' issues where Natural England doesn't agree with the Applicant's position or approach and we would ideally like this to be addressed but are satisfied that

for this particular project it is unlikely to make a material difference to our advice or the outcome of the decision-making process. Natural England will continue engaging with the applicant to seek to resolve outstanding concerns throughout the Examination.

Table 1 Detailed comments on protected species, soils and agricultural land

NE key issue ref	Topic	(C) – construction phase (O) – operational phase	NE commentary and advice: <ul style="list-style-type: none"> Further details about the project in order to enable assessment Further evidence or assessment work required 	Matters that must be secured in the DCO or MCO	Risk Red / Amber / Green
NE14	Soils & Agricultural Land – ALC Report	C, O	<p>DCO 6.15A Environmental Statement Appendix A Soils and Agricultural Land Quality Report</p> <p>Natural England have provided advice to the Applicant on the Agricultural Land Classification (ALC) Report through our Discretionary Advice Service since November 2024. Following consultation in March 2025, Natural England reviewed the updated ALC survey report in combination with the consultant clarification document, and the presented methodology appears reasonably robust, following the MAFF (1988) Agricultural Land Classification for England and Wales: Guidelines and Criteria for Grading the Quality of Agricultural Land. Natural England has no further concerns regarding the validity of this survey.</p> <p>NE have provided previous comments on the ALC Survey during pre-app, which should ideally be addressed to ensure the baseline presented in the ALC report is as robust as possible, however, remain satisfied that the report constitutes a record of the pre-working ALC grading and physical characteristics of the land within the application site boundary. NE’s comments have been included below Table 1 for reference.</p>	Ensure NE’s previous comments are addressed, and any remaining clarifications or deficiencies resolved, before the survey can be accepted as a valid baseline.	Yellow
NE15	Soils & Agricultural Land – Policy & Guidance	C, O	<p>DCO 6.15 Environmental Statement Chapter 15 Agriculture and Soils</p> <p>Natural England have provided advice to the Applicant on the application of policy & guidance in assessment of impacts through our Discretionary Advice Service since March 2025. Following consultation in August 2025, NE are satisfied that the relevant guidance has now been followed appropriately. See NE16, -17 and -18 below.</p>	No further action	Green
NE16	Soils & Agricultural Land – Magnitude of Impact	C, O	<p>DCO 6.15 Environmental Statement Chapter 15 Agriculture and Soils</p>	No further action	Green

NE key issue ref	Topic	(C) – construction phase (O) – operational phase	NE commentary and advice: <ul style="list-style-type: none"> • Further details about the project in order to enable assessment • Further evidence or assessment work required 	Matters that must be secured in the DCO or MCO	Risk Red / Amber / Green
			The Magnitude criteria used within the Agriculture and Soils Chapter have been updated in line with IEMA guidance ¹ as per NE advice (table 15.6).		
NE17	Soils & Agricultural Land – Sensitivity	C, O	DCO 6.15 Environmental Statement Chapter 15 Agriculture and Soils The Sensitivity criteria used within the Agriculture and Soils Chapter have been updated in line with IEMA guidance as per NE advice (table 15.5).	No further action	Green
NE18	Soils & Agricultural Land – Assessment Methodology	C, O	DCO 6.15 Environmental Statement Chapter 15 Agriculture and Soils The Methodology for assessing impacts to Agricultural Land and Soils has been amended in line with our comments given to the Applicant March to August 2025 (Agriculture and Soils Chapter, Table 15.4 & throughout). As a result, the permanent loss of 'best and most versatile' (BMV) land now been assessed as a significant major adverse effect arising from the EMG2 Works. Where appropriate steps have been taken to first avoid BMV land where possible, then to manage and re-use the soil resource appropriately, in line with National Networks National Policy Statement (NNNPS) paragraphs 5.189, 5.190 & 5.202, NE would not raise any further concerns regarding the loss of BMV land. Nonetheless, PINS and the Secretary of State will still need to consider this permanent significant major adverse effect in the decision-making process.	Ensure methodology is clear on steps taken to avoid impacts to BMV agricultural land in the first instance for clarity to inform decision makers.	Green
NE19	Soils & Agricultural Land – Cumulative Effects	C, O	DCO 6.21 Environmental Statement Chapter 21 Cumulative Impacts Natural England concur with the approach taken to assessing cumulative impacts on soils, recognising that, while there is currently no formally prescribed methodology, the consideration of cumulative effects remains essential to understanding long-term soil degradation and land use pressures. The guidance supports a pragmatic, evidence-led approach	No further action	Green

¹ [2022-iema land and soils guidance.pdf](#)

NE key issue ref	Topic	(C) – construction phase (O) – operational phase	NE commentary and advice: <ul style="list-style-type: none"> • Further details about the project in order to enable assessment • Further evidence or assessment work required 	Matters that must be secured in the DCO or MCO	Risk Red / Amber / Green
			that draws on best available data, professional judgement, and contextual analysis to evaluate how multiple developments may collectively affect soil function, quality, and resilience. This alignment reinforces the importance of integrating soil conservation into strategic planning, even in the absence of a standardised framework.		
NE20	Soils & Agricultural Land – Soil Management Plan	C, O	<p>DCO 6.15C Environmental Statement Appendix C Soil Management Plan</p> <p>Paragraph 4.2: We welcome use of the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites (2009) to guide soil management during construction. However, no commitment has been made to restore temporarily disturbed land to its current ALC grade and condition.</p>	<p>Include a commitment for BMV agricultural land temporality required for the development to be returned to its original ALC grade in the Soil Management Plan. Where soils are being returned to agricultural use there should be a specific commitment for BMV agricultural land temporarily required for the development to be returned to its original ALC grade. This includes areas such as field scale ecological mitigation areas and borrow pits where reinstatement to the physical characteristics of BMV quality may also be required. To reduce the incidence of anaerobic conditions developing below the normal cultivation depth, no replaced topsoils should be more than 40cm deep.</p>	Amber
NE21	Soils & Agricultural Land – Soil Management Plan	C, O	<p>DCO 6.15C Environmental Statement Appendix C Soil Management Plan</p> <p>Paragraph 4.5: Soil handling should normally be avoided during October to March inclusive, irrespective of soil moisture conditions, because it will generally not be possible to establish green cover over winter to help dry out soils and protect them from erosion.</p> <p>Soils should only be handled in a dry and friable condition. A field suitable method for assessing whether soils are in a dry and friable condition based on plastic limits is set out in Part One (Explanatory Note 4 – Table 4.2, extract below Table 1) of the Institute of Quarrying’s Good Practice Guide for Handling Soils in Mineral Working, and this approach together with the</p>	<p>Include commitment to avoid working soils October – March where possible in the Soil Management Plan.</p> <p>Ensure soils are only worked when dry and friable, referencing guidance on field tests in the Soil Management Plan.</p> <p>Ensure judgements on suitable working conditions are made by suitably qualified soils scientist are included in the Soil Management Plan.</p>	Amber

NE key issue ref	Topic	(C) – construction phase (O) – operational phase	NE commentary and advice: <ul style="list-style-type: none"> • Further details about the project in order to enable assessment • Further evidence or assessment work required 	Matters that must be secured in the DCO or MCO	Risk Red / Amber / Green
			associated rainfall protocols should be adopted. It is important where these judgements are being made that there is a high level of supervision by a suitably qualified soils scientist form part of the mitigation.		
NE22	Soils & Agricultural Land – Soil Management Plan	C, O	<p>DCO 6.15C Environmental Statement Appendix C Soil Management Plan</p> <p>Paragraph 4.6: The cited reference in this paragraph does not work.</p> <p>Paragraph 4.8: Natural England has provided comments on the ALC survey report (2098/1). These should be addressed, and any remaining clarifications or deficiencies resolved (see NE14).</p> <p>Paragraph 4.9: The 2000 MAFF guidance has now been superseded by the Good Practice Guide for Handling by the Institute of Quarrying (2021), link above para 4.5.</p>	<p>Ensure all guidance cited is up to date and all linked references are working in the ES.</p> <p>Ensure all NE’s comments on the ALC Survey are addressed (see NE14).</p>	Yellow
NE23	Soils & Agricultural Land – Soil Management Plan	C, O	<p>DCO 6.15C Environmental Statement Appendix C Soil Management Plan</p> <p>Additional information, refinement, or commitments are required to ensure that soil resources are adequately protected throughout construction and, where applicable, restored following temporary works. In such cases, Natural England would expect the Soil Management Plan to be strengthened and appropriately secured as part of the DCO to ensure deliverability and long-term soil protection.</p>	<p>Natural England advise the following details should be included to strengthen the SMP.</p> <ul style="list-style-type: none"> • Soil management should be consistent across all documents. Much of the Applicant’s commitments for soil handling / stockpiling are addressed in Appendix 15A Soils and Agricultural Land Quality Report (Document DCO 6.15A/MCO 6.15A) but do not appear in Appendix 15C (Document DCO 6.15C/MCO 6.15C). • A soil budget should be provided; this should include schedules of volumes for each soil type in situ; the volumes to be stored; the volumes to be reinstated and a soil surplus or deficit identified. 	Amber

NE key issue ref	Topic	(C) – construction phase (O) – operational phase	NE commentary and advice: <ul style="list-style-type: none"> • Further details about the project in order to enable assessment • Further evidence or assessment work required 	Matters that must be secured in the DCO or MCO	Risk Red / Amber / Green
				<ul style="list-style-type: none"> • There is no information provided on location of stockpiles and whether there is sufficient space on site to accommodate soil required for reinstatement purposes. This could include but not limited to maps showing the areas to be stripped and left in-situ; phasing plans; stockpile locations. Detail on Soil reuse: Destination and use of each soil resource (topsoil, subsoil, imported soils) should be included. • Information on erosion and runoff control (silt fencing, buffer zones); Pollution prevention measures. • Site inspection regime (before, during and after soil operations). Record keeping – dates, conditions, volumes, deviation notes. Compliance with planning conditions (e.g., biodiversity net gain, tree protection). • A soil aftercare programme should be secured for all retained and reinstated areas, with defined monitoring (e.g. quarterly in year one and biannually thereafter for a minimum of five years) to assess settlement, compaction, drainage and vegetation establishment. Maintenance should include aeration or subsoiling, organic matter incorporation, reseeding and trafficking control. Clear remedial triggers must be set, with measures such as regrading, decompaction, soil 	

NE key issue ref	Topic	(C) – construction phase (O) – operational phase	NE commentary and advice: <ul style="list-style-type: none"> • Further details about the project in order to enable assessment • Further evidence or assessment work required 	Matters that must be secured in the DCO or MCO	Risk Red / Amber / Green
				amelioration and replacement planting implemented as necessary to ensure soils achieve a stable condition appropriate to their intended use.	
NE24	Protected Species – Badger Survey	C, O	Updated badger surveys will be required post-consent within the 6 months prior to a formal licence application being submitted to Natural England.	The date of the most recent survey and the results must be detailed in the Method Statement document that will be submitted as part of the licence application.	Green
NE25	Protected Species – Badger Impacts	C, O	<p>The Badger Report details that SUDS areas will be created within 30m of sett S2 and within 20m of setts S3 and S4. This information was not included in the Method Statement document previously submitted to Natural England for this scheme. Natural England have concerns about the proximity of the SUDS basins to the retained setts and recommend amending the design so that the SUDS areas are located at least 30m away from all badger setts. If all other locations for the SUDS area are unsuitable, Natural England will require further details in order to be satisfied that the setts will not be damaged during the construction of the SUDS areas and that there will be no risk of the setts flooding if the SUDS basins were to overflow. Maps/figures showing the locations of the SUDS basins in relation to the sett entrances should also be provided, with 10m, 20m and 30m buffer zones around the sett entrances and the directions of sett tunnels shown.</p> <p>The Badger Report also states that a public footpath will be created within 20m of setts S2, S3 and S4, which was not detailed in the Method Statement document previously reviewed by Natural England. We recommend considering amending the location of the footpath so that it is located at least 30m away from each sett. If alternative routes are not feasible, we recommend planting vegetation between the footpath and the setts to shield the setts. Furthermore, details should be provided in the Method Statement document to satisfy Natural England that the setts will not be damaged during the construction of the footpath.</p>	<p>NE are satisfied there remains no impediment to a license being granted, subject to the following being addressed:</p> <p>Ensure details and justification of the SuDS in relation to the badger setts are presented to Natural England for review and comment. This should include maps with buffer zones and details of construction methods.</p> <p>Ensure details and justification of the footpaths in relation to the badger setts are presented to Natural England for review and comment. This should include maps with buffer zones and details of construction methods.</p> <p>Ensure any construction machinery methods for the community park impacting badger setts are detailed in the Method Statement.</p>	Yellow

NE key issue ref	Topic	(C) – construction phase (O) – operational phase	NE commentary and advice: <ul style="list-style-type: none"> • Further details about the project in order to enable assessment • Further evidence or assessment work required 	Matters that must be secured in the DCO or MCO	Risk Red / Amber / Green
			Sections 5.5 and 5.9 – 5.11 of the Badger Report detail that some machinery will be used within 30m of setts S1 – S4 to adjust the site levels and construct green infrastructure in the Community Park. The type of machinery that will be used and the distance from the setts will need to be detailed in the Method Statement document.		
NE26	Protected Species – Badger Mitigation & Compensation	(C, O)	<p>Details of the methods that will be used to monitor setts S5 and S6 to confirm that badgers have not re-entered the setts during the exclusion process must be detailed in the Method Statement document that will be submitted as part of the formal badger licence application.</p> <p>If setts S5 and S6 cannot be destroyed immediately following a successful exclusion period, then they must be destroyed before the expiry of the licence to prevent a breach of licence conditions.</p> <p>Natural England recommend providing more details about the landscaping proposals for the Community Park so that we can be satisfied that badgers will have access to sufficient suitable habitats post-development.</p> <p>Section 4.86 of the LEMP details that two new artificial badger setts will be created, which were not discussed in the Badger Report dated August 2025 or in the Method Statement submitted to Natural England in November 2024. If these setts are to be created, details must be provided in the Method Statement document regarding the size of the artificial setts and the materials they will be constructed from. Maps/figures must also be provided showing the locations of the artificial setts. Alternatively, if the setts are not to be created as the main sett will be retained, please ensure that this detail is removed from the LEMP.</p>	<p>NE are satisfied there remains no impediment to a license being granted, subject to the following being addressed:</p> <p>Detail methods that confirm badgers have not re-entered setts S5 and S6 during the exclusion process in the Method Statement with the formal license application.</p> <p>Where setts S5 and S6 cannot be destroyed immediately, they must be destroyed before the expiry of the license.</p> <p>Confirmation is required that badgers will not have access to suitable habitat post-development.</p> <p>Details must be provided in the Method Statement of the two new artificial setts proposed in the LEMP, including maps / figures.</p>	Yellow
NE27	Protected Species – Badger Maps / Figures	C, O	Maps/figures should be submitted that show the location of each sett entrance, its status (active, partially active or inactive) and the tunnel directions for all surveyed setts.	NE are satisfied there remains no impediment to a license being granted, subject to the following being addressed:	Yellow

NE key issue ref	Topic	(C) – construction phase (O) – operational phase	NE commentary and advice: <ul style="list-style-type: none"> • Further details about the project in order to enable assessment • Further evidence or assessment work required 	Matters that must be secured in the DCO or MCO	Risk Red / Amber / Green
			<p>We recommend providing a figure that shows the final development layout with the current sett locations included to help to evidence why setts S5 and S6 need to be destroyed.</p> <p>It would be helpful to provide a figure that shows the location of the Community Park.</p>	Provide maps / figures of all sett entrances, status and tunnel directions in relation to the development layout and Community Park.	
NE28	Protected Species – Bats	C, O	<p>Bat surveys were completed in 2022 and 2024. The details of the 2022 surveys have not been provided for review, and therefore Natural England cannot comment on their appropriateness. This includes the trees considered unsafe to climb (T13U, T14U and T66C), which were subject to one top up survey during the 2024 surveys, following a full suite of surveys in 2022. This is not considered a significant constraint given it is recognised in the report that surveys should be updated if survey data is older than 12 months. Given the surveys were conducted in 2024, updated surveys would be expected prior to the start of the works.</p> <p>Section 3.11 of the Bat Report [APP-110] indicates that further inspections were conducted on trees if they had potential roosting features and were to be lost under the proposals. Natural England would recommend indirect impact assessment of trees with bat roosting potential is completed prior to the start of the works.</p> <p>The Bat Report details that one common pipistrelle roost has been identified in T21C for which the Letter of No Impediment was issued on the 24th November 2024. No additional roosts have been identified; therefore, an updated Letter of No Impediment is not necessary.</p> <p>In the Ecology chapter, it has been detailed that foraging and commuting impacts may occur if hedgerows are broken for access proposes, with proposed establishment of hop-overs to aid crossing over the breaks. Natural England would recommend these breaks are as small as much as possible, to known distances bats species will cross.</p>	<p>NE are satisfied there remains no impediment to a license being granted, subject to the following being addressed:</p> <p>Ensure updated bat surveys are completed within 12 months prior to the start of works. This should include indirect impact assessment.</p> <p>Ensure detail and justification provided for any gaps in hedges for access and in line with known break distances bats can cross.</p>	Yellow
NE29	Protected Species –	C, O	Currently, in addition to the redacted information, insufficient information has been provided in the survey report to comment on the suitability of the	Consider mitigation measures for impacts to otter due to evidence of activity in proximity to	Yellow

NE key issue ref	Topic	(C) – construction phase (O) – operational phase	NE commentary and advice: <ul style="list-style-type: none"> • Further details about the project in order to enable assessment • Further evidence or assessment work required 	Matters that must be secured in the DCO or MCO	Risk Red / Amber / Green
	Water Vole and Otter		<p>surveys with respect to water voles and otters; no specific dates of surveys, survey conditions etc have been provided. Table 9.5.33 of the Ecology Chapter indicates that evidence of otter was detected along Diseworth brook tributary, an offsite location, adjacent to the western boundary. The scheme is proposing enhancement of the riparian zone through additional planting and reduction in land under agricultural use, and an artificial log otter holt.</p> <p>Currently, no specific mitigation measures are proposed for otters. Given their proximity to the development and wide-ranging territory Natural England would recommend mitigation measures for otters are incorporated into the scheme.</p> <p>No draft licence application has been submitted for Natural England to review; given this, it has been assumed that the Applicant does not consider a licence for impacts to otters is necessary.</p>	<p>the development and otter’s wide-ranging territory. Where licence need is identified, a draft licence application should be submitted to natural England for review.</p>	

Natural England's Comments on the ALC Survey November 2024

EMG2 ALC report 2098/1

The applicant has undertaken Agricultural Land Classification (ALC) survey work which is broadly in line with earlier MAFF findings for the same area. The Applicant has mapped the application area as Grade 1 (2ha; 2%), Grade 2 (6.4ha; 6%) and Subgrade 3a (26.8ha; 27%) land, with further areas of Subgrades 3b (64.2; 64%) and non-agricultural (0.9ha; 1%). Thus, the applicant has assessed 35.2ha (35%) of the site as comprising 'best and most versatile' agricultural land (paragraph 181 of the NPPF refers).

Should the development proceed (and subject to no m. accurate information coming to light during the working of the site), Natural England is satisfied that the Soils and Agricultural Land Classification Report (2098/1 6th March 2023) constitutes a record of the pre-working ALC grading and physical characteristics of the land within the application site boundary.

However, Natural England have the following advice:

Published information

Natural England are aware of the following ALC map and report, which lies within your area of interest.

Natural England Survey Ref: **(ALCC03096A)** Land at **North West Leicester LP Site 6597)**

<https://publications.naturalengland.org.uk/publication/5689981926899712>

Use of information contained in ALC reports produced by MAFF (now Defra) is permitted, provided that a full acknowledgement of the source of the information (Natural England) is given. Where an individual or organisation wishes to reproduce ALC maps produced by MAFF (now Defra), further conditions apply:

1. The individual/organisation must hold an OS licence.
2. Maps can only be used for the purpose stated in the request.
3. The maps must be reproduced at the same scale as the original.
4. There must be an acknowledgement that the maps were surveyed by MAFF (now Defra) and supplied by Natural England; the maps themselves should show the following acknowledgement:
"© Crown copyright. Reproduced by permission of the Controller of the Stationery Office".

Any requests from a third party for copies of these plans should be forwarded to this office. There is no charge for this information. Further information about ALC is also available in the [ALC Technical Information Note](#)

3.2 Please could you provide further detail on how moisture deficits have been calculated. Although there is no climatic limitation at this site Natural England would expect the data used to be consistent with previous post 88 surveys and the current Meteorological Office, (1989). Climatological Data for Agricultural Land Classification. Going by the grid reference provided (SK459250) MDW =103mm and MDP = 94mm.

3.7 where stoniness is the main limitation stone type should be discussed here. Having checked further into the report the data is available in the soil pit descriptions, but it is worthwhile discussing the influence of stone type in the survey results.

7 Natural England support the inclusion of soil handling information however Natural England advise degradation or permanent loss of BMV agricultural land should be considered in the ES and associated SMP. This is required for consultees and decision makers to understand the extent (ha) and likely long-term impacts on agricultural land quality (ALC grade).

7.1 Whilst the commitment to handle soils only when in a 'dry parts of the year' is welcome, soil handling should normally be avoided during October to March inclusive, irrespective of soil moisture conditions, because it will generally not be possible to establish green cover over winter to help dry out soils and protect them from erosion. Soils should only be handled in a dry and friable condition. A field suitable method for assessing whether soils are in a dry and friable condition based on plastic limits set out in Part One (Explanatory Note 4 – Table 4.2 provided below in Annex 1 [page 14 of this letter]) of the Institute of Quarrying's Good Practice Guide for Handling Soils in Mineral Working, and this approach together with the associated rainfall protocols should be adopted.

7.2 Machinery to be used will need to be specified. This should accord with best practice as set out in Defra 2009 Code of Construction Practice for the Sustainable Use of Soils on Construction Sites, namely using excavators and dump trucks. Use of bulldozers should not be permitted for any subsoils being returned to best and most versatile quality due to the high risk of soil compaction due to repeated trafficking. Bulldozers should not normally be used, other than if a modified loose tipping method of topsoil (not subsoil) replacement is employed in line with the Defra Construction Code. All storage bunds intended to remain in situ for more than 6 months or over the winter period should be grassed over and weed control and other necessary maintenance carried out.

Appendix details of observations maps laboratory analysis

- Stone content not provided for subsoils, so droughtiness cannot be ascertained. All field data should be provided to prevent these uncertainties.
- Where uncertainties arise with wetness class, I would expect more discussion on the decision-making process e.g. Point 3, as they haven't provided colours or structural conditions. Their recording suggests no gleying nor SPL. Therefore, on that basis, the Wetness Class would be I. However, they have only gone to 47cm and have indicated waterlogging above pan. Therefore, if we assume a SPL <80cm and gleying at 47cm (Fig 8), we would get WC III.

General comments

Soil surveyor qualifications and experience unknown - This type of survey requires an experienced ALC surveyor, in order to make the correct professional judgements, where to introduce flexibility and ensure consistency is applied and high standards are met. Although NE are satisfied both Miss Thomas and Mr Palmer may meet these requirements this information should be presented in detail within the report or as an appendix

Institute of Quarrying Good Practice Guide for Handling Soils in Mineral Workings

Table 4.2: Field Tests for Suitably Dry Soils

Soil tests are to be undertaken in the field. Samples shall be taken from at least five locations in the soil handling area and at each soil horizon to the full depth of the profile to be recovered/replaced. The tests shall include visual examination of the soil and physical assessment of the soil consistency.

- i) Examination
 - If the soil is wet, films of water are visible on the surface of soil particles or aggregates (e.g. clods or peds) and/or when a clod or ped is squeezed in the hand it readily deforms into a cohesive 'ball' means **no soil handling to take place**.
 - If the samples are moist (i.e. there is a slight dampness when squeezed in the hand), but it does not significantly change colour (darken) on further wetting, and clods break up/crumble readily when squeezed in the hand rather than forming into a ball means **soil handling can take place**.
 - If the sample is dry, it looks dry and changes colour (darkens) if water is added, and it is brittle means **soil handling can take place**.
- ii) Consistency

First test

Attempt to mould soil sample into a ball by hand:

- Impossible because soil is too dry and hard or too loose and dry means **soil handling can take place**.
- Impossible because the soil is too loose and wet means **no soil handling to take place**.
- Possible - Go to second text.

Second test

Attempt to roll ball into a 3mm diameter thread by hand:

- Impossible because soil crumbles or collapses means **soil handling can take place**.
- Possible means **no soil handling can take place**.

N.B.: It is possible to roll most coarse loamy and sandy soils into a thread even when they are wet. For these soils, the Examination Test alone is to be used.

Annex B Natural England's Response to the Examining Panel's First Written Questions

Table 2 Natural England's Response to the Examining Panel's First Written Questions

ExQ1 Ref	Question to:	Question:	Response from Natural England:
Q3.0.1	The applicants Natural England (NE)	<p>Best and Most Versatile (BMV) agricultural land methodology</p> <p>In tables 15.3 and 15.4 of chapter 15 of the ES [AS-061], NE raises concerns regarding the methodology used to assess effects on BMV agricultural land. The applicants state that chapter 15 has been reviewed in response to these comments. Please explain:</p> <ul style="list-style-type: none"> • what changes, if any, have been made to the assessment methodology as a result of NE's comments • where these changes are documented in the ES chapter 15 • the current position of the applicants and NE on whether the revised methodology adequately addresses concerns raised by NE 	<p>Following consultation with the Applicant through our Discretionary Advice Service, NE are satisfied that the BMV agricultural land assessment methodology is robust and in line with current IEMA guidance. Please see comments given in Annex A, Table 1 of this document (Refs NE15, 16, 17 and 18).</p>
Q3.0.3	The applicants NE	<p>BMV significance threshold</p> <p>ES chapter 15 [AS-061] explains at paragraph 15.2.3 that a loss of 20 ha or more of BMV agricultural land is treated as the critical threshold for significance, with reference to schedule 4, paragraph (y) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and published guidance. Please confirm:</p> <ul style="list-style-type: none"> • whether the "20 ha" criterion in paragraph 15.2.3 has been applied to permanent loss only, or to permanent and temporary 	<p>Following our comments through our Discretionary Advice Service, NE are satisfied with the conclusion of significance of effect to BMV agricultural land. The Examining Authority will need to consider the permanent significant major adverse effect in the decision-making process.</p> <p>The Applicant should ensure methodology is clear on steps taken to avoid impacts to BMV agricultural land in the first instance for clarity to inform decision makers.</p>

ExQ1 Ref	Question to:	Question:	Response from Natural England:
		<p>effects combined, and where this is evidenced in ES chapter 15 (by paragraph/ table reference)</p> <ul style="list-style-type: none"> • whether the assessment has appropriately taken account of the grade composition of BMV land affected (Grades 1, 2 and Subgrade 3a, 3b) in reaching the overall significance conclusion • whether NE agrees with the applicant's application of the approach in this case and the resulting significance conclusions for effects on BMV agricultural land 	<p>NE have provided formal comment on this in Annex A, Table 1 of this document (Ref NE18).</p>
Q3.0.5	<p>The applicants NE</p>	<p>Cumulative effects on BMV land</p> <p>ES chapter 15 [AS-061] states at paragraph 15.6.1 that an agreed methodology for cumulative effects of BMV land loss has not yet been established and refers to IEMA guidance proposing comparison of BMV land loss against changes in national and regional average land loss over a set period. Paragraph 15.6.1 further explains that a 3-year change in land use (2019–2022) has been used in tables 15.9 and 15.10, and notes that the guidance proposes that contribution to more than 1% of the average five-year national land loss would be significant.</p> <p>Paragraph 15.6.2 concludes that the EMG2 Works would have a significant cumulative effect on regional BMV land loss (table 15.9, 37%), but would not have a significant cumulative effect on the national stock of BMV land (table 15.10, 0.32%).</p> <p>Please could the applicants:</p> <ul style="list-style-type: none"> • explain the basis for using a 3-year average (2019–2022) for the cumulative comparison, and how this has been applied 	<p>NE are satisfied with the approach taken on cumulative impacts on soils and have provided formal comment on this in Annex A, Table 1 of this document (Ref NE19).</p>

ExQ1 Ref	Question to:	Question:	Response from Natural England:
		<p>consistently with the five-year benchmark referred to in paragraph 15.6.1</p> <ul style="list-style-type: none"> • confirm the data sources and assumptions used to derive the regional and national BMV baseline figures in tables 15.9 and 15.10 and explain how uncertainty in those assumptions has been addressed • explain how the conclusion of a significant regional cumulative effect but not a significant national cumulative effect has been taken into account in the overall assessment of effects on BMV land (including the conclusions at section 15.7) • confirm whether NE agrees with the applicant's cumulative assessment approach and conclusions for BMV land in section 15.6 of the ES chapter 15 NE is also given the opportunity to comment on the above. 	
Q5.0.3	<p>The applicants</p> <p>NWLDC</p> <p>NE</p>	<p>Skylarks</p> <p>Prologis [RR-024D] raised concerns about the delivery of key mitigation, especially for skylarks displaced by the DCO scheme. Please can the applicants provide more details about any mitigation for skylark. The ExP are particularly interested how any such mitigation located on the community park would be effective in the context of the park's multifunctional use. For example, among other things, would recreational users of the community park have the potential to disturb skylarks and diminish the effectiveness of skylark mitigation (see ExQ1.4.2)? Please can NWLDC and NE provide an updated position in relation to protected species and in doing so</p>	<p>Skylarks do not fall into the remit of NE as they are not a notified features of any relevant designated site and do not require an individual protected species license. As such, NE have no comments on this matter.</p>

ExQ1 Ref	Question to:	Question:	Response from Natural England:
		comment on the issue of skylark mitigation, and farmland bird species more generally.	
Q5.0.4	Forestry Commission NE NWLDC	Veteran trees Please can the Forestry Commission, NE and NWLDC clarify whether they are satisfied with the applicant's assessment of veteran trees, including their role as irreplaceable habitats, as set out in the LEMP [APP-117], and whether there is compliance with paragraph 5.63 of the NNNPS?	Natural England have no formal or bespoke comment to make on veteran trees that are outside of designated sites and would direct the Examining Authority and Applicant to our standing advice: Ancient woodland, ancient trees and veteran trees: advice for making planning decisions - GOV.UK.
Q5.0.7	NE NWLDC	Badgers Table 9.12 of chapter 9 of the ES [AS-039] states while badger welfare is protected under legislation they are common and widespread, and for planning purposes are not ascribed a particular conservation value and are considered to be of negligible importance. However, standing advice is clear that badgers should be protected for planning purposes. Are NE and NWLDC satisfied with the applicants' approach to badgers and that they are of 'negligible' importance?	Licenses will be required for works impacting badgers and their habitats as per our standing advice: Wildlife licences: when you need to apply - GOV.UK. NE have some comments on the Application's approach to impacts to badgers and provided formal comment on this in Annex A, Table 1 of this document (Ref NE24, -25, -26, and -27).
Q5.0.10	NWLDC NE	Hedgerow loss Please can NWLDC and NE advise whether they are satisfied with the extent of hedgerow loss as part of the proposed development and that it is consistent with the mitigation hierarchy? For example, would the detailed design on the EMG2 main site provide	Hedgerows do not fall into the remit of NE as they are not notified features of any relevant designated sites. As such we have no comment to make on hedgerows.

ExQ1 Ref	Question to:	Question:	Response from Natural England:
		opportunities to retain some of the hedgerows that are currently identified to be lost?	
Q5.0.11	NE NWLDC The applicants	<p>Pre-Construction species surveys</p> <p>Are pre-construction species surveys necessary as a general measure, or are they only necessary in relation to specific species? In either case, have they been suitably secured in the dDCO and dMCO?</p>	<p>The Applicant may not need to provide a detailed survey if they are able to show that protected species are unlikely to be affected even if they are on or near a development site. They should demonstrate this through the assessment. This is as per our standing advice: Protected species and development: advice for local planning authorities - GOV.UK</p> <p>If additional surveys are needed to support species licence applications after consent is granted, it may not be necessary to secure these surveys within the DCO itself, because they are already required as part of the licence application process.</p>
Q5.0.12	NE NWLDC	<p>Securing ecological mitigation</p> <p>Ecological mitigation is contained in a number of documents, including the ES, LEMP, CEMP, the BNG Report and individual protected species reports. Are NE and NWLDC satisfied that these documents and the mitigation within them are suitably secured in the dDCO and dMCO? For example, is it clear that the habitat creation identified in the BNG Report [APP-116] is secured by the dDCO for the EMG2 works and the highway works, and by the dMCO for the EMG1 works?</p>	<p>The conditions required for species licenses should be included in the p-CEMPS, which are detailed in the DCO and MCO to include ecological mitigation works. In the DCO and MCO ecological mitigation works are noted to include creation of artificial badger setts only. This should be expanded to include all conditions on the granting of the individual species licences.</p> <p>We are satisfied that the LEMP is secured within the DCO under requirement 10. The measures for</p>

ExQ1 Ref	Question to:	Question:	Response from Natural England:
			<p>the MCO are to be compliant with the LEMP from the original EMG1 DCO, and as such we are satisfied this is adequately secured.</p> <p>We note that a Silt Management Plan was detailed within the ES of the DCO (Document DCO 6.3A). However, this was not included in the draft DCO. We recommend this is included within requirement 11 for the CEMP.</p> <p>We welcome the inclusion of requirement 17 for the management of surface water during construction and operation. We suggest the ongoing monitoring, management and maintenance is secured within the requirement.</p>
Q5.0.13	<p>The applicants</p> <p>NE</p> <p>NWLDC</p>	<p>Ecological traffic mitigation</p> <p>Paragraph 9.5.171 of chapter 9 of the ES [AS-039] discusses general mitigation to address traffic related harm. Is there scope within the detailed design to provide wildlife underpasses or wildlife crossings within the site, particularly for any protected species? If yes, how might this best be secured so that it is proportionate?</p>	<p>As these impacts do not relate to impacts to designated sites, NE have no specific comments to make on this based on the information presented. In general terms, we encourage any decision making on mitigation be based on the evidence and assessment presented with clear justification to ensure it is appropriate and proportionate.</p>
Q5.0.20	<p>NE</p> <p>NWLDC</p>	<p>Age of surveys</p> <p>Are NE and NWLDC satisfied with the age of habitat and species surveys? If updates would be required prior to commencing</p>	<p>NE have some comments on the Application's approach to age of bat surveys and provided formal comment on this in Annex A, Table 1 of this document (Ref NE28).</p>

ExQ1 Ref	Question to:	Question:	Response from Natural England:
		development, have such updates been secured in the dMCO and dDCO?	<p>In terms of the age of surveys more generally, we would direct the Examining Authority to guidance from CIEEM: Advice note on the Lifespan of Ecological Reports and Surveys CIEEM.</p> <p>The CEMP notes that there will be an updated walkover survey for habitats (para 16.4), a pre-commencement badger survey (para 16.22) and pre-commencement bat survey (para 16.37). Paragraph 16.82 also notes the follow up activity should any species be found. To strengthen the CEMP, the timelines given within the advice note from CIEEM could be referenced to give further certainty on their relevance.</p> <p>The CEMP is secured by requirement and so is suitably secured within the DCO and MCO.</p>
Q5.0.21	<p>The applicants</p> <p>NE</p> <p>NWLDC</p> <p>EMIA</p>	<p>Farmland bird habitat</p> <p>Please can the applicants calculate the percentage of existing farmland bird habitat that would be lost as a result of the cumulative projects within the region and indicate what proportion of that loss would be generated by the EMG2 project itself. Does NE or NWLDC have any concerns about the cumulative effects on farmland bird habitat? For example, would farmland birds displaced by the EMG2 project have sufficient habitat elsewhere in the region? Does EMIA have any concerns about the displacement of farmland birds in the immediate area surrounding the airport in regards bird strike risk?</p>	<p>Natural England have no specific comments on birds in the general population outside designated sites.</p>

ExQ1 Ref	Question to:	Question:	Response from Natural England:
Q5.0.22	NE NWLDC	<p>Ecological zone of influence</p> <p>Are NE and NWLDC satisfied that Isley Woodhouse, and other such significant projects within the region, are outside the ecological zone of influence and would not have any impact pathways that would need to be considered cumulatively with the EMG2 project? Are the distances cited for the respective projects (2km - 5km) in table 9.34 of chapter 9 of the ES [AS-039] sufficient to draw such a conclusion in the context of the ecological receptors present within the region?</p>	<p>NE are satisfied with the conclusions of the ES in regard to cumulative (inter-project) impacts to designated sites from the development and Isley Woodhouse development. This is due to the impacts from the EMG2 development being suitably mitigated.</p> <p>In our comment at Relevant Representations (RR-023D, ref NE13), we suggested there may be strategic connectivity opportunities to link up the green infrastructure provided as part of this Application and Isley Woodhouse.</p>
Q5.0.24	The applicants NE NWLDC	<p>Badger setts</p> <p>Please can the applicants clarify whether the mitigation hierarchy has been followed in relation to the loss of any badger setts, in accordance with paragraph 5.48 of the NNNPS? For example, have opportunities been taken to minimise the footprint of the development to avoid any badger setts currently identified for closure, and could the illustrative layout be reduced in extent during detailed design. Is there sufficient evidence demonstrating that such avoidance is not possible, and is NE and NWLDC satisfied with the applicants' approach in this regard? The applicants should submit their answer to this question in a confidential report. The ExP would ask that the applicants send a copy of the confidential report direct to NE and NWLDC for their consideration.</p>	<p>Natural England have no comments at this time but would welcome the opportunity to review the requested report on this matter.</p>

ExQ1 Ref	Question to:	Question:	Response from Natural England:
Q5.0.32	NE	<p>Ancient woodland and ancient/ veteran trees</p> <p>In its RR [RR-023D] at paragraph 1.2.21, NE states that there would be no loss of ancient woodland or ancient/ veteran trees. However, table 9.13 of chapter 9 of the ES [AS-039] notes “Nine veteran trees defined under the Biodiversity Gain regulations are to be lost” and table 9.15 notes one retained on site and 7 off-site veteran trees are “modelled to be exposed to increased levels of airborne pollutants exceeding 1% PC of critical levels” in respect of the DCO works. Appendix B of the Arboricultural Assessment (appendix 10C of the main ES chapter [APP-123]) sets out the rationale for designation, and the main ES chapter sets out the reasoning for removal where this is proposed. NE is asked to review these documents and update the ExP with its position.</p>	<p>NE have no specific comments on ancient / veteran trees outside of designated sites. We would direct the ExP to our standing advice to support decision making: Ancient woodland, ancient trees and veteran trees: advice for making planning decisions - GOV.UK.</p>
Q5.1.1	NE	<p>Whether Appropriate Assessment Required</p> <p>In paragraph 1.2.4 of NE’s RR [RR-023D] it is indicated that the proposed development is “unlikely to result in adverse effects on the integrity of the River Mease Special Area of Conservation , subject always to any appropriate mitigation/ compensation outlined in the application documents being secured adequately”. However, the applicants’ Shadow Habitats Regulations Assessment [APP-115] concludes (paragraph 5.1) that “there are no viable pathways by which the project could give rise to Likely Significant Effects (LSE) on the SAC or its qualifying features”. Considering regulation 63(1) of the Conservation of Habitats and Species Regulations 2017, could NE please confirm:</p>	<p>NE agree with the shadow HRA, that there are no pathways by which an LSE could occur, meaning there is no requirement for an Appropriate Assessment. This is due to the development lying outside the catchment of the River Mease SAC. As such there is no hydrological connection to the SAC or any of its designated features.</p>

ExQ1 Ref	Question to:	Question:	Response from Natural England:
		<p>(a) whether NE considers there is potential for likely significant effects (LSE) to occur on a European site; or</p> <p>(b) if NE therefore agrees with the applicant that there are no pathways by which an LSE could occur, meaning there is no requirement for an Appropriate Assessment?</p> <p>In giving its response, NE is requested to explain its reasoning.</p>	
Q8.1.4	<p>NWLDC</p> <p>Highway authorities</p> <p>NE</p> <p>Affected persons</p> <p>Interested parties with land ownerships within 25m of the application site</p>	<p>Article 38 – Felling or lopping of trees and removal of hedgerows</p> <p>Could the identified parties please comment on the distance from the Order limits of 25 metres set out to allow works to trees and hedgerows. The ExP notes that general advice from NE is that 15m is sufficient buffer to ensure ancient woodland is not affected. Given there is no such resource here, any distance will need to be fully justified both in response to this question and in the EM.</p> <p>Could NWLDC confirm whether presently there are any trees protected by tree preservation orders within 25m of the Order limits? Should this situation change, could NWLDC ensure this information is submitted into the examination.</p> <p>Is any party aware of any hedgerow within 25m of the Order limits which would be defined as “important” for the purposes of The Hedgerows Regulations 1997 or an “important hedgerow” for the purposes of The Management of Hedgerows (England) Regulations 2024? If so, could this please be identified on a plan, along with the reasoning behind why the party holds that view.</p>	<p>NE have no specific comments on hedgerows or ancient / veteran trees outside of designated sites.</p> <p>We would direct the ExP to our standing advice, which includes buffer distances to support decision making: Ancient woodland, ancient trees and veteran trees: advice for making planning decisions - GOV.UK.</p>

ExQ1 Ref	Question to:	Question:	Response from Natural England:
Q8.3.1	NE NH EA Highway authorities LLC as LLFA Any person who is an approving body under schedule 3 of the Flood and Water Management Act	Consultee in requirements In various requirements there is a requirement for consultation with a statutory body prior to the decision maker deciding whether to approve details pursuant to requirements. Could all statutory parties review the requirements and confirm whether consider that the current arrangements are appropriate. Should they wish to amend this, could they please set out where such a change should be made, and if requesting additional consultation explain why it is considered necessary.	NE would draw the ExP attention to our Relevant Representations (RR-023D) Part III where we make specific comments on the requirements and what is satisfactory and what should be amended to ensure mitigation and enhancement is secured. We would welcome further consultation on discharges of these requirements where there are direct impacts to designated sites, opportunities for nature recovery, people-nature connections and soils & agricultural land including: <ul style="list-style-type: none"> • Relevant pCEMPs • LEMP • SMP
Q8.3.2	The applicants NE NWLDC	Requirement 1 The parties are asked for their comments as to whether the definition of “ecological mitigation works” is sufficiently and precisely defined?	As noted in our response to Q5.0.12, in the DCO and MCO ecological mitigation works for protected species are noted to include creation of artificial badger setts only. This should be expanded to include all conditions on the granting of the individual species licences. All mitigation requested by NE to mitigate impacts to designated sites is specified elsewhere in the DCO and MCO, such as the CEMP. See our response to Q8.3.1 for our comments on these.